

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF LOUISIANA**

**DAVID HILLIARD AND  
LAJUANA HILLIARD** \* **CIVIL ACTION**  
\* **NO. 08-00350**  
**VERSUS** \* **JUDGE POLOZOLA**  
**KAWASAKI MOTORS CORP., USA** \* **MAGISTRATE DALBY**  
\* \* \* \* \*

## ANSWER

**NOW INTO COURT**, through undersigned counsel, comes defendant, Kawasaki Motors Corp., USA (hereinafter referred to as KMC-USA), which answers the Complaint of plaintiffs, David Hilliard and Lajuana Hilliard, as follows:

1.

The following allegations of paragraph 1 pertaining to KMC-U.S.A.'s status are admitted: that KMC-USA is a Delaware Corporation, with offices in its registered agent, The Corporation Trust Center, located at 1209 Orange Street, Wilmington, Delaware and that KMC-USA is

authorized to do business in Louisiana and the address of its registered agent in Louisiana is CT Corporation System, 5615 Corporate Blvd., Ste. 400B, Baton Rouge, LA 70808.

2.

Defendant denies the allegations contained in paragraph 2.

3.

Defendant denies the allegations of paragraph 3 for lack of sufficient information to justify a belief as to the truth therein.

4.

Defendant denies the allegations of paragraph 4 for lack of sufficient information to justify a belief as to the truth therein.

5.

Defendant denies the allegations contained in paragraph 5.

6.

Defendant denies the allegations contained in paragraph 6.

7.

Defendant denies the allegations contained in paragraph 7.

8.

Defendant denies the allegations of paragraph 8 for lack of sufficient information to justify a belief as to the truth therein.

9.

Defendant denies the allegations of paragraph 9 for lack of sufficient information to justify a belief as to the truth therein.

10.

Though not specifically required to answer a prayer for relief, KMC-USA denies that plaintiffs are entitled to the relief set forth in the unentitled paragraph beginning "WHEREFORE, plaintiffs," and therefore denies that plaintiffs are entitled to any actual damages, statutory damages, costs, attorney fees, and further denies that plaintiffs are entitled to any relief of any kind.

11.

Kawasaki denies any allegations not specifically admitted herein.

**AND NOW**, further answering, defendant KMC-USA avers as follows:

**FIRST DEFENSE**

KMC-USA did not breach any duty owed to plaintiffs under state or federal law.

**SECOND DEFENSE**

Some or all of the claims in this case are barred, in whole or in part, to the extent they are based on, and/or the damages alleged were caused by, the acts or omissions of third parties over whom Defendant has no control and for whom Defendant is not responsible.

**THIRD DEFENSE**

Plaintiffs' claims are barred in whole or in part by their own misconduct and/or negligence.

**FOURTH DEFENSE**

Any actual damages complained of were not proximately caused by the acts or omissions of KMC-USA.

**FIFTH DEFENSE**

KMC-USA specifically denies that it caused damage to plaintiffs, however, in the event that this court should find KMC-USA liable for any of the alleged acts set forth in the Petition for Damages, KMC-USA asserts that Plaintiffs failed to mitigate their damages, which preclude, lessen or reduce any recovery by Plaintiffs.

**SIXTH DEFENSE**

The Jet Ski® at issue may have been subjected to abuse, misuse, and/or substantial change in condition subsequent to the time it left the manufacturer's possession and control.

**SEVENTH DEFENSE**

Defendant gives notice that it will rely upon such other and further defenses that become apparent during the course of this action.

**JURY TRIAL**

Defendant requests a trial by jury.

**WHEREFORE**, defendant, Kawasaki Motors Corp., USA, prays that it receive all legal and equitable relief to which it is entitled.

Respectfully submitted,

**DEUTSCH, KERRIGAN & STILES**

*s/Nancy J. Marshall*

---

**NANCY J. MARSHALL (#8955)**  
**ASHLEY E. GILBERT (#29210)**  
755 Magazine Street  
New Orleans, LA 70130  
Telephone: (504) 581-5141  
Facsimile: (504) 566-1201  
*Counsel for Defendant, Kawasaki Motors Corp., USA*

**CERTIFICATE OF SERVICE**

I hereby certify that on August 6, 2008, a copy of the above and foregoing was filed electronically with the Clerk of Court using the CM/ECF system which will send a notice of electronic filing to all counsel of record.

*s/Nancy J. Marshall*

---

**NANCY J. MARSHALL**